

DEPARTMENT OF CONSUMER AFFAIRS
COURT REPORTERS BOARD OF CALIFORNIA
INITIAL STATEMENT OF REASONS

Hearing Date: March 28, 2006

Subject Matter of Proposed Regulation: Professional Standards of Practice

Section Added: Title 16, California Code of Regulations (CCR), Section 2475

Purpose

The Court Reporters Board of California (Board) is mandated to protect the public health, safety, and welfare by ensuring that only those individuals possessing entry-level competence are granted licensure as court reporters (also referred to as “certified shorthand reporters”) in California. The Board further meets its mandate to protect the public by ensuring that court reporters licensed by the Board who violate any provision of law are appropriately disciplined.

§ 2475. Professional Standards of Practice.

There are currently no regulations that clarify the description of unprofessional conduct or specific professional standards of practice relating to the duties of a certified shorthand reporter. The language is being adopted as follows to identify some specific professional standards relating to the duties of a certified shorthand reporter.

Subsection (a) of CCR Section 2475 gives notice to licensees of the professional standards of practice, stating that violations of the professional standards of practice may result in the suspension, revocation, or denial of certification.

Subsection (b) identifies specific professional standards of practice with which all licensees must comply.

Subsection (b)(1) requires truthful advertising, prohibiting licensees from representing themselves as having qualifications or expertise that they do not possess.

Subsection (b)(2) requires licensees to maintain confidentiality of oral and written information, based upon the proceeding being reported.

Subsection (b)(3) requires a licensee to perform services within the scope of his or her competence, and allows when there is a lack of such competence for the continuation of reporting after proper notification and when stipulated by all parties or ordered by the presiding officer.

Subsection (b)(4) requires a licensee to deliver a transcript consistent with dates agreed to, and to notify the parties of delays.

Subsection (b)(5) requires a licensee to notify parties to a proceeding when there has been a request for preparation of a transcript by another party.

Subsection (b)(6) generally requires a licensee to treat parties equally.

Subsection (b)(7) prohibits a licensee from being compensated in a way that compromises his or her impartiality, such as having an interest in the outcome of the litigation.

Subsection (b)(8) prohibits licensees from giving or receiving substantial gifts and/or services to or from likely clients.

Factual Basis/Rationale

§ 2475. Professional Standards of Practice.

There are currently no regulations that clarify “unprofessional conduct” or that identify specific professional standards of practice relating to the duties of a certified shorthand reporter, as referenced in Business and Professions (B&P) Code Section 8025. The proposed regulatory action identifies some specific examples of professional standards of practice relating to the duties of a certified shorthand reporter.

Several statutes authorize the Board to discipline its licensees who are in violation of the law. B&P Code Section 8025, enacted in 1986, states that the Board may suspend, revoke, or deny certification or impose other disciplinary action for one or more causes contained in its subsections. Section 8025(d) states that such action may be taken against an individual who commits “fraud, dishonesty, corruption, willful violation of duty, gross negligence or incompetence in practice, or unprofessional conduct in the practice of shorthand reporting.” Subsection (d) also provides a general description of “unprofessional conduct” as including, but not being limited to, “acts contrary to professional standards concerning confidentiality; impartiality; filing and retention of notes; notifications; availability, delivery, execution and certification of transcripts; and any provision of law substantially related to the duties of a certified shorthand reporter.”

The Board relies upon Section 8025 in pursuing disciplinary action against licensees who have acted unprofessionally in the performance of their duties. However, the current language contained in Section 8025(d) defining “unprofessional conduct” is fairly broad, making it more difficult for the Board to successfully demonstrate when licensees have violated the law by acting unprofessionally.

The Board has been working to develop a regulation to clarify the statute for several years. Over the last two years, multiple Board meetings and two public town hall meetings have been held to draft regulatory language for the Board’s review and consideration. The town hall meetings were attended by individual licensees, firm

owners, court reporting equipment vendors, representatives from professional associations, court reporting school officials, and students. An ad hoc committee, which included Board and professional association members, was formed to redraft the language based on previous information and input from the Board meetings and the town hall meetings. That language was reviewed by the Board, then further refined by the committee, and finally approved for notice and hearing by the Board at its April 29, 2005 meeting.

The Board initiated the proposed regulatory action for the purpose of clarifying the intent of B&P Code Section 8025 in relation to unprofessional conduct. These regulations are necessary to make Section 8025 more specific by identifying some key professional standards of practice relating to the duties of a certified shorthand reporter. Although an exhaustive “laundry list” is not possible, the participating parties of the Board’s ad hoc committee agreed that there were identifiable acts performed by licensees that violated acceptable professional standards. Based on the proposed regulatory language, the following examples of acts performed by licensees would constitute violations of the professional standards of practice.

- Advertising that a licensee is “board certified” as a real-time reporter, since the Board does not certify real-time reporters [subsection (b)(1)];
- Releasing oral or written information that was received in a deposition [subsection (b)(2)];
- Reporting a deposition in a specialized field that is beyond the licensee’s competence, for example a medical malpractice case when the licensee has no experience with reporting medical terms [subsection (b)(3)];
- Failing to deliver a transcript as promised, and failing to notify the parties of delays, or even respond to telephone calls [subsection (b)(4)];
- Purposely or inadvertently giving one party an advantage by providing a transcript without other parties knowledge [subsection (b)(5)];
- Reporting a proceeding and not revealing that one party is a family member [subsection (b)(6)];
- Agreeing to a contingency fee, based upon the success of the proceeding; or
- Accepting gifts from clients.

The proposed regulatory language gives notice to licensees of agreed upon standards of practice in the field, and allows the Board to more easily establish violations of professional standards in disciplinary actions based upon violations of B&P Code Section 8025.

Underlying Data

Minutes from April 29, 2005 Board Meeting

Business Impact

The proposed regulatory action will not have a significant adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because it affects all licensees equally who must comply with the professional standards of practice.

Requirements for Specific Technologies or Equipment

This proposed regulatory action does not mandate the use of specific technologies or equipment.

Consideration of Alternatives / Description of Alternatives

No alternative which was considered would be either more effective than or equally as effective as and less burdensome to affected private persons than the proposed regulation.